

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CHERYL KATER and SUZIE KELLY,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

CHURCHILL DOWNS INCORPORATED, a
Kentucky corporation, and BIG FISH GAMES,
INC., a Washington corporation.

Defendants.

MANASA THIMMEGOWDA, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

BIG FISH GAMES, INC., a Washington
corporation; ARISTOCRAT TECHNOLOGIES
INC., a Nevada corporation; ARISTOCRAT
LEISURE LIMITED, an Australian corporation;
and CHURCHILL DOWNS INCORPORATED,
a Kentucky corporation,

Defendants.

No. 15-cv-00612-RSL

**PLAINTIFFS' UNOPPOSED MOTION
TO SEAL**

Noting Date: September 29, 2020

No. 19-cv-00199-RSL

**PLAINTIFF'S UNOPPOSED MOTION
TO SEAL**

Noting Date: September 29, 2020

Pursuant to Civil Local Rule 5(g), Plaintiffs Cheryl Kater, Suzie Kelly, and Manasa Thimmegowda (together, “Plaintiffs” or “Settlement Class Representatives”) respectfully move for leave to file under seal (i) Plaintiffs’ Unopposed Motion For Emergency Injunction Pursuant to 28 U.S.C. § 1651 (the “Motion”), (ii) the [Proposed] Order Granting the Motion (the “[Proposed] Order”) and (iii) the Declaration of Todd Logan filed in support of the Motion (the “Logan Declaration”), in their entirety.¹

While there exists a “strong presumption of access to judicial records,” the presumption is overcome by a showing of “good cause” to seal documents attached to non-dispositive material. *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179-1180 (9th Cir. 2006). This “good cause” standard is notably less stringent than the “compelling reasons” threshold that must be satisfied for dispositive motions—and for good reason: records attached to non-dispositive materials routinely “[have] little public value beyond [the] presumption” of access. *Hill v. Xerox Corp.*, No. 12-cv-0717-JCC, 2014 WL 1356212, at *1 (W.D. Wash. Apr. 7, 2014). Yet even under the more stringent “compelling reasons” threshold (and therefore especially under the “good cause” standard) documents that could “become a vehicle for improper purpose” warrant filing under seal. *Kamakana*, 447 F. 3d at 1179. Such is the case here.

The Motion, [Proposed] Order and Logan Declaration contain information that, if made public, could provide a blueprint for persons and/or entities with malicious intent to unlawfully interfere with, obstruct, or undermine the fair administration of this class action settlement, as well as other class action settlements in this District and in courts across the country. *Cf. Bohannon v. Facebook, Inc.*, No. 12-cv-01894-BLF, 2014 WL 5598222, at *3 (N.D. Cal. Nov. 3, 2014) (granting motion to seal documents “in their entirety” where they contained information that “could be abused by malicious parties”) (internal quotation marks omitted).

¹ In compliance with LCR 5(g)(3)(A) Plaintiffs’ counsel has conferred with Defendants in an attempt to reach agreement on the need to file the document under seal, to minimize the amount filed under seal and to explore redaction and other alternatives to filing under seal. Specifically, the undersigned counsel met and conferred by telephone on September 29, 2020 with Matthew Verdin, counsel for Defendants.

1 For the foregoing reason, Plaintiffs respectfully request leave to file under seal the
2 Motion, the [Proposed] Order, and the Logan Declaration, in their entirety.

3 DATED this 29th day of September, 2020.

4 Respectfully submitted,

5 **SUZIE KELLY, CHERYL KATER, AND**
6 **MANASA THIMMEGOWDA**, individually and
7 on behalf of all others similarly situated,

8 By: /s/ Todd Logan

9 Todd Logan*
10 tlogan@edelson.com
11 EDELSON PC
12 123 Townsend Street, Suite 100
13 San Francisco, California 94107
14 Tel: 415.212.9300/Fax: 415.373.9435

15 By: /s/ Cecily Shiel

16 TOUSLEY BRAIN STEPHENS PLLC
17 Cecily C. Shiel, WSBA #50061
18 cshiel@tousley.com
19 1700 Seventh Avenue, Suite 2200
20 Seattle, Washington 98101-4416
21 Tel: 206.682.5600

22 *Plaintiffs' Attorneys and Class Counsel*

23 *Admitted *pro hac vice*